

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MORGANS GROUP, LLC,

Plaintiff,

V.

5104 CAROLINE, L.L.C.,
OX CAROLINE CONDOS, L.L.C.,
OXBERRY GENERAL, L.L.C.,
OXBERRY FINANCIALS, LTD.,
PEJMAN JAMEA, SHAHIN JAMEA,
DOCUMENTED TRANSACTIONS, INC.,

Defendants.

CIVIL ACTION NO. 4:19-cv-02809

**DEFENDANTS' OPPOSED MOTION FOR EXTENSION OF TIME TO COMPLY
WITH DISCOVERY ORDER (CM/ECF # 43(1))**

Defendants 5104 Caroline, L.L.C., Ox Caroline Condos, L.L.C., Oxberry General, L.L.C., Oxberry Financials, LTD., Pejman Jamea, Shahin Jamea, and Documented Transactions, Inc. (collectively, “Defendants”), by and through their undersigned counsel, move for an extension of time to comply with Discovery Order (CM/ECF #43(1). Defendants are a two-person firm comprised of two brothers: Shahin Jamea and Pejman Jamea. Defendants have never done ediscovery before and, despite advice of counsel, did not have a realistic idea of the obligations or more specifically the requirements of ediscovery. Defendants apologize to the Court and ask for relief from the Discovery Order as follows:

The Court entered a Discovery Order and ordered Defendants to (1), by November 1, 2020, to review all documents produced, segregate into relevant and irrelevant groups, and furnish those groupings to Morgans Group, LLC. Second, the Court ordered, by November 1, 2020, in answering interrogatory I, Oxberry General, L.L.C., must furnish, for each company, a separate

paragraph, including the assumed name and all bank accounts for which it claims a direct interest and claims an operating interest, and a diagram of how the defendants are interrelated. Defendants served the amended answer to interrogatory I with the information ordered and the diagram of how the defendants are interrelated on November 1, 2020. Defendants cannot comply with the ordered document production and asks for relief from the discovery order by an extension of time to comply with the discovery order.

Defendants and Plaintiff agreed on search terms for electronic discovery in this case. Defendants also agreed to hire a third party ediscovery company to conduct the search and furnish the results using agreed ESI discovery protocols. The ediscovery company's search produced over 33,000 documents and all were produced to Plaintiff. Plaintiff and Defendant conferred multiple times regarding the production. Defendant took its discovery obligations seriously and paid the ediscovery company approximately \$11,000.00, which to defendants is a significant amount of money. Defendants believed it had complied with its ediscovery obligations.

Defendants relied on the ediscovery company for guidance and to complete the search in accordance with the rules and Defendants' obligations. Despite that good-faith belief, Plaintiff communicated by phone and in a detailed email the deficiencies of the search results stemming from the underlying search and what was searched. Defendants were told and believed all categories were searched and everything was produced. It was Defendants objective all along to produce everything and hold nothing back (other than attorney/client communications). In good faith, Defendants believed everything was produced in the 33,000 page document production.

Plaintiff filed a motion to compel based, in part, on separating relevant/irrelevant documents in the production and producing the relevant results. However, as discussed between counsel by phone and detailed by emails, Plaintiff noted other issues with the production and

reserved the right to seek further relief. Defendants took the allegations seriously and presented these alleged deficiencies to the ediscovery company. A dispute ensued over the search, the costs, and whether it was done properly and in compliance with Defendants obligations and their intent to produce everything. Communication between Defendants and the ediscovery company became difficult. In Defendants view, they were nonresponsive and could not answer questions on how to proceed and address the issues with the production. The problems escalated and it seemed that the issues could not be reconciled. Equally clear was that Defendants would not be able to comply with the Court's order or cure any of the deficiencies communicated by Plaintiff considering the disputes with the ediscovery company. Defendants also did not want to be subject to further motions regarding the issues that Plaintiff had communicated to Defendants and detailed in their motion to compel. Defendants wanted the ediscovery obligations to be fulfilled, the search done properly, the results reviewed, and the production served. Believing the ediscovery company had not done the search properly and with no plan to cure and the other issues, Defendants terminated the ediscovery company.

Defendants always intended to do the ESI project in compliance with the rules and the obligations. Defendants believed there was no other way to comply with the ediscovery obligations without hiring a different ediscovery company and to again do the ESI search. Defendants consulted with the new ediscovery company regarding the issues identified with the production, provided the agreed search terms, and provided the agreed ESI discovery protocols. The search terms and protocols were applied. The ediscovery company completed the search and the total project data is as follows:

Project Data Size: 153.86 gigabytes

Total Records/Files: 264,347

Total Pages: 1,331,495

	Count	Count with Related
All Term Hit	197651	235933
All Term Hit (minus 'Oxberry')	194428	232840
Privilege Search Hit	5186	8393
Relevant Search Hit	44231	70834
Irrelevant Search Hit	26647	46780

Tag Name	Count	Count with Related
stud* OR "research" OR "report" OR "survey" OR "opinion" OR "investigation"	102683	154524
"application" OR "permit" OR "license" OR "certification" OR "government" OR "municipal"	76487	125973
"mistaken" OR "mistake" OR "mixup" OR "error"	54813	95422
"Mondrian"	39108	55549
"Oxberry"	37198	64281
"marketing" OR "market" OR advertis* OR promot*	34581	61351
"location"	24893	50754
"license" OR "permission" OR "allow"	24737	48797
"Nazarian" OR "Sam" OR "sbe" OR "licensing" OR "New York" OR "NY" OR "Miami" OR "MIA" OR "Florida" OR "California" OR "Los Angeles" OR "LA"	22330	45327
"business plan" OR "projection" OR "revenue" OR "product plan" OR "proposal"	22160	43224

"trademark search" OR "research" OR "trademark" OR "mark" OR "brand"	18816	38097
"5104 Caroline"	17974	31729
"source"	15393	29814
"social media" OR "social network" OR "Facebook" OR "Twitter" OR "Instagram" OR "Vimeo"	14107	23416
"advertising" OR advertise*	6855	16124
"entertainment"	4052	9349
"Hotel"	4010	8472
"endorse" OR "endorsement"	3891	11354
"profit and loss" OR "P&L"	3457	11275
"affiliated"	3129	9005
"sponsorship" OR sponsor*	3108	5763
"Morgans Group" OR "Morgans" OR "Morgan"	3035	6983
"Mond"	1950	3109
"confusion" OR confuse*	1908	4314
"Douglas Elliman"	1449	2414
"infringement" OR infring*	1368	3314
"Random Sky"	1097	1841
Ox Condo* OR "Ox Caroline" OR "Caroline Condo"	416	812
"Documented Transactions" OR "Doc Transactions" OR "Doc trans"	274	517
"SBE"	203	553
"< facebook.com/mondrianhouston >"	17	47
"< vimeo.com/oxberrygroup >"	14	41

"< Instagram/mondrianhouston >"	10	24
"< Instagram.com/mondhouston >"	9	27
"< vimeo.com/themond >"	9	27
"< twitter.com/montrianhouston >"	4	15

The Search cost so far with the new ediscovery company has been \$5,000.00 and the estimated Imaging Cost as is above \$26,000.00.

It is estimated that 100-200 images can be reviewed per person, per hour. Defendants are committed to putting everyone at their disposal on this project (2 people plus counsel). Defendants are a two-person firm. Even with best efforts and five people, it will take time to complete the review of over more than 264,000 records/files. Defendants agreed to the search terms without knowing how much data would be retrieved by them. Defendants have never done ediscovery before this case. Frankly, they had no idea and certainly never thought that this project could amass a review of over a million pages. At this juncture, Defendants in good faith would ask that the parties work together to limit the terms such that the results would not retrieve so much data, most of which is irrelevant to this case. The amount of irrelevant data and the cost of review is in part why the first motion to compel was filed. If the parties could work together on limiting the search terms with the above information in mind, then the process could be completed much more quickly and efficiently.

Defendants are essentially a two-person firm and have limited resources. Despite the limitations, Defendants desire to and will do whatever necessary to please the Court. Defendants have not done electronic discovery before and did not know, even with advice of counsel, the obligations and extent of the process that is required. Defendants are taking this case and their discovery responsibilities seriously and have shown that by paying a significant amount of money

to now two ediscovery companies and are willing to devote whatever the Court deems just to this project and on a time-line that can it can reasonably be accomplished.

This motion is made in good faith and is not made for the purpose of delay or any improper purpose.

Defendants respectfully submit the Affidavit of Shahin Jamea in support (attached) of this motion.

Defendants apologize to this Court. Defendants need relief from the Discovery Order, and Defendants pray that this Court grant appropriate relief that it deems just and proper.

Dated: November 1, 2020

Respectfully submitted,

By: /s/ Paul S. Beik
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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF CONFERENCE

This hereby certifies that I emailed and conferred via teleconference with opposing counsel regarding a motion for extension of time to comply with the Discovery Order. Plaintiff is opposed to the motion.

By: /s/ Paul S. Beik
PAUL S. BEIK

CERTIFICATE OF SERVICE

I hereby certify that, on November 1, 2020, a copy of the forgoing instrument was served via the Court's CM/ECF system on the following counsel of record for Plaintiff as follows:

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